

105TH CONGRESS
1ST SESSION

H. R. 2888

To amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 1997

Mr. FAWELL (for himself and Mr. ANDREWS) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sales Incentive Com-
5 pensation Act”.

6 **SEC. 2. EXEMPTION.**

7 Section 13(a) of the Fair Labor Standards Act of
8 1938 (29 U.S.C. 213(a)) is amended by striking the pe-

1 riod at the end of paragraph (17) and inserting a semi-
2 colon and by adding at the end the following:

3 “(18) any employee employed in a sales position
4 if—

5 “(A) the employee’s position requires spe-
6 cialized or technical knowledge related to prod-
7 ucts or services being sold;

8 “(B) the employee’s sales are predomi-
9 nantly to persons or entities to whom the em-
10 ployee has made previous sales or the employ-
11 ee’s position does not involve initiating sales
12 contacts;

13 “(C) the employee receives—

14 “(i) base compensation, determined
15 without regard to the number of hours
16 worked by the employee, of not less than
17 an amount equal to 1½ times the mini-
18 mum wage multiplied by 2,080; and

19 “(ii) in addition to the employee’s
20 base compensation, compensation based
21 upon each sale attributable to the em-
22 ployee;

23 “(D) the employee’s aggregate compensa-
24 tion based upon sales attributable to the em-

1 ployee is not less than 40 percent of the
2 amount specified in subparagraph (C)(i);

3 “(E) the employee receives a rate of com-
4 pensation based upon each sale attributable to
5 the employee which is beyond sales required to
6 reach the compensation required by subpara-
7 graph (D) which rate is not less than the rate
8 on which the compensation required by sub-
9 paragraph (D) is determined; and

10 “(F) the rate of annual compensation or
11 base compensation for any employee who did
12 not work for an employer for an entire calendar
13 year is prorated to reflect annual compensation
14 which would have been earned if the employee
15 had been compensated at the same rate for the
16 entire calendar year.”.

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